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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 244/2018 & CRL.M.A. 30935/2018, I.As. 6997/2018,**
15053/2018
VINOD KUMAR DHALL Plaintiff

Through: Mr. Dayan Krishnan, Senior Advocate with Mr. Sai Krishnan Rajagopal, Ms. Julien George & Ms. Aakashi, Advocates (M-7838836901) along with Plaintiff in person.

versus

PANKAJ RAI Defendant
Through: Mr. Vipul Agrawal, Ms. Bhagya K. Yadav, Advocates (M-9971904695).

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **04.12.2018**

1. The present suit has been filed by the Plaintiff seeking an injunction in the following terms:

(i) Pass a decree of permanent perpetual injunction in favour of the Plaintiff and against the Defendant restraining the Defendant, his agents, representatives, etc. from issuing, disseminating, circulating, communicating any false, defamatory, malicious, scandalous statement(s), allegations, insinuations, either written or spoken, thereby amounting to libel, by way of publication of the same and/or slander against the Plaintiff, by way of print or electronic medium including but not limited to emails, letters, SMS, social media posts, websites, newspapers, or in any other manner whatsoever, to any third parties/general

public;

(ii) Pass a decree of mandatory injunction in favour of the Plaintiff and against the Defendant directing the Defendant to make a public apology in at least two newspapers with national circulation;

(iii) Pass a decree of mandatory injunction in favour of the Plaintiff and against the Defendant directing the Defendant to remove all such defamatory posts, statements or pictures etc published on internet including the social media;

(iv) Pass a money decree of INR 2,25,00,000/- (Rupees Two Crores Twenty Five Lacs Only) in favour of the Plaintiff and against the Defendant as damages for defamation and for the loss sustained by the Plaintiff on account of damage to reputation caused by defamatory statements and malicious falsehoods made / published by the Defendant; however if the court deems fit, it could grant a notional compensation of INR 1;

(v) compensation for mental harassment;

(vi) award for recovery of costs of the suit from the Defendant;

and /or

(vii) pass such other and further order (s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. This Court on 18th May, 2018, had, after considering the various averments made in the plaint granted an injunction in the following terms:

" ...

2. Issue notice of the suit and the application to the defendant by all modes returnable before the Joint Registrar for 24.08.2018 and in the meanwhile the defendant is restrained from maligning and defaming the plaintiff in public domain qua case 47/2017 and qua his professional image in any manner whatsoever.

3. The stand of the Defendant is that the Plaintiff who was holding the position of Chairman of the Competition Commission of India (*hereinafter* 'CCI') and is an advocate as well, is barred under Rule 7 of Chapter III of the Bar Council of India Rules from practising before the said forum. The said Rule reads as under:

“[7. “An Officer after his retirement or otherwise ceasing to be in service for any reasons, if enrolled as an Advocate, shall not practice in any of the Courts, Tribunals or Authorities, of which he was a member or is presided over by an officer equivalent or lower to the post which such officer last held:

Provided that the restriction on such officer shall extend only to the territorial jurisdiction of the High Court, which such officer was subordinate to:

Provided further that the restriction shall be in addition to any other restriction imposed by any other Statute for the time being in force.

Explanation.-An officer shall include Judicial Officer, Officer from State or Central services and Presiding Officers or Members of the Tribunals or Authorities or such officers as referred under section 30(ii) of the Advocates Act, 1961.] ”

In this context, the Defendant made various allegations in e-mails which have been extracted in the pleadings by the Plaintiff.

4. The Defendant has also filed a complaint before the Bar Council of India in respect of this issue. On the last date, notice was issued to the Bar Council of India. Ld. Counsel for Bar Council of India who is appearing today, submits that vide letter dated 3rd December, 2018, the complaints received against the Plaintiff have been forwarded to the relevant Bar Council i.e. Bar Council of Delhi where the Plaintiff is enrolled.

5. The Defendant is willing to make a statement that he does not intend to malign or defame the Plaintiff in the public domain in any manner whatsoever. However, he would be raising the issue under Rule 7 of (Chapter III) of Bar Council of India Rules which provide the conditions for right to practice in the relevant fora. He submits that there should be no embargo on him from raising this issue in respect of this Rule. However, he agrees that the restraint order which was passed on 18th May, 2018, can be confirmed with this caveat.

6. The Ld. Sr. Counsel for the Plaintiff submits that if the Defendant is willing to give an undertaking that he will not defame the Plaintiff in the public domain, then the Plaintiff is satisfied and none of the other reliefs are pressed.

7. In view of the above submissions, the suit is disposed of with the following directions:

- i) There shall be a decree of permanent injunction restraining the Defendant from maligning or defaming the Plaintiff in the public domain or tarnishing his professional image in any manner whatsoever. This shall however not bar the Defendant from raising the issue in respect of Rule 7 of Chapter III of the Bar Council of India Rules and Section 37 of the Advocates Act, 1961 in the appropriate fora;
- ii) All defences of the Plaintiff in the appropriate fora are left open.

The Bar Council of Delhi shall decide the complaints which have been forwarded to it by Bar Council of India, against the Plaintiff, expeditiously and in any event, within a period of one year. The Bar Council of Delhi shall

go into the question as to whether there is in fact any complaint against the Plaintiff. This Court has not given any findings on the merits of the issues raised.

8. No other reliefs are pressed. A copy of this order be sent to Bar Council of India and Bar Council of Delhi for due compliance.

PRATHIBA M. SINGH, J.

DECEMBER 04, 2018

Rahul